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Governor
David Raber
Director

ARIZONA TRANSACTION PRIVILEGE TAX NOTICE
TPN 15-1
(Revised 6/22/2015)
(SUPERCEDES AND RESCINDS TPN 14-1)

NOTE: During the 2013, 2014, and 2015 legislative sessions, the legislature made significant changes to how Arizona transaction privilege tax (“TPT”) applies to activities involving the modification or alteration of real property. This document addresses various questions and provides examples involving the implications of the changes to the *Prime Contracting classification* effective January 1, 2015. This document does not address other activities that may be taxable under the *Prime Contracting classification*.

Introduction

Prior to January 1, 2015, Arizona Revised Statutes (A.R.S.) § 42-5075 *Prime Contracting classification* imposed TPT on the gross income derived from all modification activities and any other modifications to real property. However, effective January 1, 2015, the gross income derived from maintenance, repair, replacement or alteration (“MRRA”) activities affecting real property are not subject to transaction privilege tax under the *Prime Contracting classification* when the activities are performed directly for the property owner or authorized party. Activities that are deemed “modifications” of real property remain taxable under the *Prime Contracting classification*.

FAQs

- Q1.** What is A.R.S. §42-5075(O)?
- A1.** A.R.S. §42-5075, *Prime Contracting classification*, imposes TPT on income derived from activities that affect real property, and also provides exemptions for specified activities. Subsection “O” of this statute states that MRRA projects are excluded from the *Prime Contracting classification*, provided these activities meet the definitions and criteria outlined in the statutes and in this TPN.
- Q2.** What are “maintenance,” “repair,” “replacement” and “alteration” activities, which generally are not subject to prime contracting TPT?
- A2.** “**Maintenance**” is the upkeep of property or equipment. Examples of maintenance include: an annual HVAC system checkup that includes topping off any fluids, restaining a wood deck, and refinishing hardwood floors.
- “**Repair**” is an activity that returns real property to a usable state from a partial or total state of inoperability or nonfunctionality. Examples of repairs include: recharging partially or totally nonfunctional air-conditioning units with refrigerant, fixing a leak from a bathtub or shower, clearing partially or completely blocked pipes of debris, readjusting satellite

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dishes to restore reception, and replacing worn washers in leaky or totally inoperable faucets.

“Replacement” is the removal of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery and equipment, that provides the same or upgraded design or functionality, regardless of the contract amount. Examples of replacements include: any required removal and installation of bathroom fixtures, a tile roof, a sprinkler system, or an HVAC unit.¹

“Alteration” is an activity or action that causes a direct physical change to existing property. For purposes of this definition the following apply:

1. Residential property: If the contract price for the work is 25% or less of the property’s full cash value for property tax purposes (as stated on the County Assessor’s website or on the Notice of Value issued by the County Assessor), the contract falls within the meaning of an alteration under A.R.S. §42-5075(O).
2. Commercial property: If **all** of the following thresholds are satisfied, the contract is an alteration under A.R.S. §42-5075(O).
 - a. Contract amount is \$750,000 or less.
 - b. Scope of work directly relates to 40% or less of the existing square footage.
 - c. Scope of work includes an expansion of existing square footage that is 10% or less of pre-existing square footage.

Note – 25% “Cushion”: If a project qualifies as an alteration under A.R.S. § 42-5075(O) at the time the contract is bid or entered into, subsequent increases to the contract amount/scope will not disqualify it as an alteration so long as none of the above thresholds is exceeded by more than 25% at completion.

Caution: A.R.S. §42-5075(R)(1)(c) states that “[p]roject elements may not be artificially separated from a contract to cause a project to qualify as an alteration.”

- Q3.** What are taxable modification activities, for purposes of the prime contracting TPT?
- A3.** Taxable modification activities encompass “ground up” construction, grading and leveling ground, and wreckage or demolition activities, to the extent that they cannot otherwise be characterized as MRRA activities. (See Q23 and Q24 and Scenarios 8 and 12 below for a discussion of the exception regarding de minimis modification activities.) Income derived

¹ Effective July 3, 2015, retroactive to January 1, 2015, the definition of “replacement” reads as follows:

“Replacement” means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same similar or upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.

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from activities that fall within any of MRRRA categories is not subject to prime contracting TPT. In addition, "modification" does not include any wreckage or demolition of existing property or any other activity that is a necessary component of an MRRRA project, or any mobilization or demobilization related to an MRRRA project.

Q4. Who can be considered an "owner of real property" under the *Prime Contracting classification*?

A4. "Owner" means the person who holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of A.R.S. §42-5075(O), a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

Q5. What is the A.R.S. §42-5008.01 liability?

A5. A TPT licensed contractor who purchases tangible personal property exempt from tax and who uses that tangible personal property in performing an MRRRA project is subject to an amount equal to retail TPT on the purchase price of the tangible personal property. The amount due is based on the retail TPT rate of, and if reportable to, the location of the MRRRA project.

Licensing

Q6. Who is a contractor?

A6. A contractor has the same meaning as a "builder" and means a person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or through others, modify any building, highway, road, railroad, excavation, manufactured building, or other structure, project, development or improvement, or do any part of such project, including scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors.

Q7. Who is required to obtain a TPT license under the *Prime Contracting classification*?

A7. Prime contractors must obtain TPT licenses and are subject to TPT under the *Prime Contracting classification*. A prime contractor is a person who performs, coordinates, or supervises modification work, including contracting with any subcontractors. The prime contractor is the person responsible for the completion of the contract. A prime contractor is subject to prime contracting TPT on income derived from non-MRRRA projects, regardless of whether the contractor furnishes only labor or both labor and materials in the

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performance of modification work. Prime contractors who perform both modification contracts and MRRA contracts are required to maintain a TPT license.

Q8. Who is not required to obtain a TPT license under the *Prime Contracting classification*?

A8. A contractor is not required to obtain a prime contracting TPT license if its business activities are limited to MRRA contracts affecting existing property with either: (a) the owner of real property or (b) the owner of the improvements to real property. (See Q4 for more information about who is an “owner” If a contractor performs modification contracts in addition to MRRA contracts, the contractor is subject to prime contracting TPT on its gross receipts from the modification contracts and is required to obtain a TPT license. A contractor who chooses to maintain his or her TPT license, is required to report the amount due on the purchase price of untaxed materials that were incorporated into an MRRA project on Form TPT-1 under business code 315. A contractor who maintains a TPT license but who only performs MRRA activities is also required to report the income from MRRA contracts on Form TPT-1 under business code 015, and use deduction code 500 to deduct this income (see example below).

Materials

Q9. Are materials that are incorporated into a modification project subject to TPT at the time of purchase?

A9. Materials purchased by a TPT-licensed contractor for incorporation into a taxable modification project that is not an MRRA project are not subject to retail TPT at the time of purchase from a retailer, because such projects are subject to prime contracting TPT. The TPT-licensed contractor would provide a properly completed TPT Exemption Certificate (Form 5000) to the retailer to provide a basis to exempt from retail TPT the purchase of materials that will be physically incorporated or fabricated into the project.

Absent another deduction under the retail classification, a subcontractor without a TPT license who is purchasing materials that are to be incorporated into a modification project subject to prime contracting TPT will be unable to purchase such materials exempt from retail TPT unless the subcontractor is working for a TPT-licensed prime contractor who has provided the subcontractor with a valid Department-issued Form 5009L Contractor’s Project Certificate for the project. The prime contractor is the person who submits a Form 5009L to the Department for registration, and would then provide a copy of the registered Form 5009L to the unlicensed subcontractor, to allow that subcontractor to purchase materials from a retailer exempt from retail TPT.

Q10. I am a contractor who only performs MRRA activities and will no longer be licensed as a prime contractor for TPT purposes. I cancelled my TPT license on February 13, 2015. I

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currently have materials that I purchased exempt from retail TPT for incorporation into a modification project. How should I treat these materials for TPT purposes?

A10. Since your license was cancelled prior to May 1, 2015 and you purchased the materials tax-free with the intent to incorporate them into a project that, before January 1, 2015, was subject to prime contracting TPT, your use of an exemption certificate to purchase the materials was proper. However, because the subsequent use of the materials on or after January 1 is for MRRA activities that are no longer subject to prime contracting TPT, you are liable for the amount equal to the retail TPT for these materials. This amount will be based on a reasonable estimation of the value of all items on hand at the time the TPT license was canceled.

If the reasonable estimate of the value is:

1. Ten thousand dollars or less, you are not liable for any tax or similar amounts that otherwise would be due by law.
2. More than ten thousand dollars, you are not liable for any tax or similar amounts that otherwise would be due by law on the first ten thousand dollars, and the value in excess of ten thousand dollars is subject to an amount equal to any tax that a seller would have been required to pay under the retail classification. The amount may be reported and paid under one of the following methods:
 - a. Pursuant to A.R.S. § 42-5008.01(B).
 - b. In a single payment based on your principal place of business in Arizona.
 - c. In twelve equal monthly installments to be reported and paid to the department beginning immediately following the month in which your license is canceled, based on any tax the seller would have been required to pay if the seller were located at your principal place of business. **(See Q.21 below for how to report)**

Q11. I am an MRRA contractor who is not required to have a TPT license and so I have not obtained a TPT license. Are the materials I purchase to incorporate into an MRRA project subject to tax?

A11. A contractor who does not have a TPT license is a consumer of the materials incorporated into an MRRA project. Therefore, a sale of materials to the contractor is the same as the sale to any other consumer. The sale of materials to a contractor that does not have a TPT license is subject to tax at the time of sale of the materials. If the materials are purchased from an Arizona retailer, the retailer is subject to tax on the sale of the materials unless a specific deduction/exemption applies. If the materials are purchased from an out-of-state vendor who does not collect the tax from the contractor purchaser, the contractor is subject to state and any applicable city use tax on the purchase price of the materials based on where the materials are delivered, unless a specific deduction/exemption applies to the materials purchased.

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- Q12.** I am a contractor who will remain licensed for prime contracting TPT purposes after January 1, 2015 because I will continue to perform taxable modification activities. Nevertheless, I will also perform nontaxable MRRRA activities as part of my business. The performance of these nontaxable activities requires some or all of the same materials I acquire for taxable modification activities. I currently have materials that I purchased exempt from retail TPT for incorporation into a modification project prior to the effective date of January 1, 2015. How should I treat these materials—and materials I subsequently acquire—for TPT purposes?
- A12.** Contractors who retain their transaction privilege tax license because they engage in both MRRRA contracts and modification projects that have materials on hand that were purchased exempt from tax by providing a retailer a Form 5000 prior to January 1, 2015, are subject to the amount imposed under A.R.S. § 42-5008.01 at the time the materials are incorporated into a nontaxable MRRRA project. The rate is equal to the state and local rates imposed under the retail classification. The amount is calculated and reported based on the location of the MRRRA project.
- Q13.** I am a contractor who is licensed for prime contracting TPT purposes who performs both taxable modification activities and nontaxable MRRRA activities as part of my business. I perform both taxable modification projects and nontaxable MRRRA projects for a **Qualifying Hospital** that has provided me with a copy of its annual Department letter that states the Qualifying Hospital is exempt from tax on its retail purchases of tangible personal property. The *Prime Contracting classification* allows me to deduct from my taxable gross income, the cost of all materials purchased for a project with a Qualifying Hospital under Deduction Code 646. (I recognize that the remainder of the income derived from the prime contracting project for the Qualifying Hospital is subject to tax under the *Prime Contracting classification* that is reported under Business Code 015.)
- However, for the MRRRA projects I perform for the Qualifying Hospital, are the materials that I purchase subject to the amount imposed under A.R.S. § 42-5008.01?
- A13.** Deductions available under the *Prime Contracting classification* for the cost of tangible personal property incorporated into a taxable prime contracting project, are generally also available for nontaxable MRRRA projects in reporting the amount imposed under A.R.S. § 42-5008.01. (Business Code 315) For example, the cost of the materials used for an MRRRA project performed for a Qualifying Hospital, should be reported under Business Code 315, and then may be deducted using Deduction Code 646. (A licensed prime contractor reports the gross income from all MRRRA projects in the Gross Amount reported on Form TPT-1 under Business Code 015, and deducts all MRRRA project income using Deduction Code 500.)
- Q14.** I am a contractor who is licensed for prime contracting TPT purposes who performs both taxable modification activities and nontaxable MRRRA activities as part of my business. I perform both taxable modification projects and nontaxable MRRRA projects for a **Native American Tribal Entity on the Tribe's reservation**. How should I report the income derived from these projects, and regarding the MRRRA projects, are the materials that I purchase subject to the amount imposed under A.R.S. § 42-5008.01?

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A14. The gross income derived from modification projects that are contracted with a Native American Tribe, Tribal Entity or an Enrolled Member of the Tribe and that are performed on the Tribe's reservation, is exempt from prime contracting TPT. The gross income from these prime contracting projects is reported (using the Region Code of the Tribe's Reservation) in the Gross Amount on Form TPT-1 under Business Code 015, and is deducted using Deduction Code 570. The gross income derived from MRRRA projects that are contracted with a Native American Tribe, a Tribal Entity or an Enrolled Member of the Tribe and that are performed on the Tribe's reservation is also included in the Gross Amount reported on Form TPT-1 under Business Code 015, and is deducted using Deduction Code 500.

Materials sold to a contractor for projects that are contracted with a Native American Tribe, Tribal Entity or an Enrolled Member of the Tribe and performed on the Tribe's reservation are exempt from tax at the time of purchase, and are also deducted when reporting the amount imposed under A.R.S. § 42-5008.01. The cost of the materials used for these MRRRA projects should be reported under Business Code 315, and then may be deducted using Deduction Code 712.

Subcontractors/Certificates

- Q15.** I am a taxable prime contractor. What do I need to do if I hire a contractor without a TPT license as a subcontractor on a taxable project?
- A15.** A prime contractor who hires one or more contractors who do not have TPT licenses must submit a project-specific exemption certificate — the Contractor's Project Certificate (Form 5009L) — to the Department of Revenue. The Department will register a valid Form 5009L and return it to the prime contractor. The registered Form 5009L will provide the documentation necessary to allow the unlicensed subcontractors to make exempt purchases of materials that are to be incorporated into the taxable prime contracting project.
- Q16.** If I am a taxable prime contractor and hire a contractor who is not licensed as a prime contractor for TPT purposes as a subcontractor on a nontaxable MRRRA project, does it affect the taxability of my gross receipts derived from the project?
- A16.** No. The prime contractor's gross receipts derived from the MRRRA project (including the subcontracted activity) remain nontaxable for prime contracting TPT purposes.
- Q17.** What if I am not required to have a TPT license but will be working for a licensed contractor on a taxable project? Can I buy my materials exempt from TPT?
- A17.** A contractor without a TPT license who is working for a taxable prime contractor should obtain a copy of the Contractor's Project Certificate (Form 5009L) from the prime contractor that has been submitted to and registered by the Department. The unlicensed

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subcontractor will provide a copy of the registered Form 5009L to the retailer so that materials may be purchased for the taxable project exempt from retail TPT. The unlicensed contractor cannot use a Form 5000 in place of the Form 5009L.

Q18. What is the procedure for a prime contractor to obtain an exemption certificate to issue to its subcontractors who do not have TPT licenses?

A18. A prime contractor who hires unlicensed contractors to work as subcontractors on a taxable project must first complete a Contractor's Project Certificate (Form 5009L) and submit it to the Department of Revenue for registration. After receiving the registered certificate back from the Department, the prime contractor may provide the certificate to its subcontractors, so that the subcontractors may purchase materials to be incorporated into the project exempt from retail TPT. This form should not list retailers and suppliers as subcontractors. The prime contractor is required to submit the following documents to obtain the registered Contractor's Project Certificate:

1. A completed Form 5009L that contains the following information:
 - a. The prime contractor's name, address, transaction privilege tax number, Arizona Registrar of Contractors' license number, telephone number and fax number, the date the project will begin, and the estimated date of completion.
 - b. A list of the unlicensed contractors hired as subcontractors, including their names and Arizona Registrar of Contractors' license numbers.
 - c. A description of the project.
2. A copy of the pages of the contract with the owner that indicate the parties to the contract and the scope of the work of the contract.

Send completed Form 5009L requests to the following address:

ATTN: Form 5009L Request
Tax Research & Analysis Section
1600 W. Monroe St. – Division Code 3
Phoenix, AZ 85007-2650

The prime contractor may amend the list of contractors without TPT licenses who are hired as subcontractors after issuance of the Contractor's Project Certificate (Form 5009L) for a project by filing a request with the Department at any time.

Q19. How long is a Contractor's Project Certificate (Form 5009L) valid?

A19. The Contractor's Project Certificate (Form 5009L) issued pursuant to A.R.S. § 42-5009(L) is valid for the term of the project as specifically stated on the certificate.

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- Q20.** I am a prime contractor who will remain licensed for TPT purposes after January 1, 2015. Before January 1, I had provided my suppliers with TPT Exemption Certificates (Form 5000) and subcontractors with Prime Contractors Certificates (Form 5005), many of which are “blanket” (*i.e.*, not project-specific). What should I do after this date to comply with the law?
- A20.** If you hold a TPT license for prime contracting purposes after January 1, 2015, you can continue to use a non-project specific TPT Exemption Certificate (Form 5000) to purchase materials intended for incorporation into modification projects or for incorporation into an MRRRA project from a retailer. The purchase price of the materials that are ultimately incorporated into an MRRRA project is subject to the amount imposed under A.R.S. §42-5008.01.

While you may continue to supply a Prime Contractors Certificate (Form 5005) to a subcontractor who holds a TPT license for prime contracting purposes, you may provide a Contractor’s Project Certificate (Form 5009L) to any subcontractor who does not hold such a license, if the unlicensed subcontractor needs to purchase materials that will be physically incorporated or fabricated into the prime contracting project. A Contractor’s Project Certificate Form 5009L is project specific and must be submitted to the Department for registration.

A Prime Contractors Certificate (Form 5005) may be issued by either a prime contractor, a general contractor working on an MRRRA project or the person assuming the responsibility of remitting the tax due on the prime contracting project or the amount equal to retail TPT on materials incorporated into an MRRRA project, to a subcontractor. A subcontractor that hires another subcontractor may not issue a Form 5005 to that subsequent subcontractor since the subcontractor is not assuming responsibility for payment of the prime contracting TPT or the amount equal to retail TPT on materials incorporated into an MRRRA. A subcontractor should provide a copy of the Prime Contractors Certificate (Form 5005) received from the prime contractor to its subcontractor. Alternatively, a prime contractor may issue a Prime Contractors Certificate (Form 5005) directly to the subcontractor’s subcontractor.

Reporting

- Q21.** A contractor cancels its TPT license on February 15, 2015. At the time of the cancellation, the contractor has made a reasonable estimate of \$16,700 for the value of the materials on hand. The contractor elects to report and pay the amount equal to retail transaction privilege tax, imposed under A.R.S. §42-5008.01, in 12 monthly installments. When would the contractor be required to make the first payment and what is the amount of each installment payment? How does the unlicensed taxpayer report this amount?

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A21. The first payment should be made immediately following the month in which the license is cancelled. The A.R.S. §42-5008.01 amount is based on the tax that the seller would have been required to pay under the retail classification if the seller were located in the jurisdiction where the contractor's principal place of business is located. The first \$10,000 is not subject to the amount equal to the retail transaction privilege tax. Therefore, the amount equal to the transaction privilege tax is calculated on \$6,700. If the combined state, county and municipal retail rate is 7.8%, the total amount due is \$522.60. Each monthly payment would be \$43.55. The contractor should report and pay this amount each month to the Department along with a cover letter identifying the contractor, its previous transaction privilege tax license number and the amount paid. The above should be sent to the following address:

Arizona Department of Revenue
Attn: Desk Audit – MRRA
1600 W Monroe St – Division Code 16
Phoenix, AZ 85007

Q22. I am a prime contractor who also performs nontaxable MRRA contracts. I have purchased materials for both prime contracting projects and MRRA projects exempt from tax under a Form 5000. What do I report on my TPT-1?

A22. See TPT-1 example below:

A contractor has gross receipts in a month totaling \$67,230.00. The receipts consist of:

Fountain Hills: MRRA Job \$16,900 with \$6,002 of material on which no retail tax was passed on by the retailer at the point of sale.

Gilbert: Prime Contracting \$40,130

MRRA Job \$10,200 with \$2,404 of materials on which no retail tax was passed on by the retailer at the point of sale.

This example assumes that State TPT (5.6%) Maricopa County excise tax (0.7%) and Gilbert's city privilege tax (1.5%) are factored from gross receipts using the Department's Automatic Factoring Worksheet available on the Department's website at www.azdor.gov/Business/TransactionPrivilegeTax/TaxFactoring.aspx.

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TRANSACTION PRIVILEGE, USE, AND SEVERANCE TAX RETURN (TPT-1)

Arizona Department of Revenue
 PO BOX 29010 • PHOENIX, AZ 85038-0010

For assistance out-of-state or in the Phoenix area: (602) 255-2060 or
 Statewide, toll free from area codes 520 and 928: (800) 843-7196

TPT-1 return is due the 20th day of the month following the reporting period.

STATE LICENSE NUMBER: XXXXXXXXXX	
TAXPAYER IDENTIFICATION NUMBER: <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN	
PERIOD BEGINNING: 0, 5, 0, 1, 2, 0, 1, 5	PERIOD ENDING: 0, 5, 3, 1, 2, 0, 1, 5
DOR USE ONLY <input type="checkbox"/> LABELED RETURN	
Print Form	
POSTMARK DATE	
RECEIVED DATE	

I. TAXPAYER INFORMATION

Amended Return Multipage Return One-Time Only Return Final Return: (CANCEL LICENSE)

BUSINESS NAME
Contracting Example 1
C/O

ADDRESS
123 Any Street
CITY STATE ZIP
Anycity AZ 85007

Address Changed

II. TRANSACTION DETAIL (If more reporting lines are necessary, please attach continuation pages.)

LINE	(A) BUSINESS DESCRIPTION	(B) REGION CODE	(C) BUSINESS CODE	(D) GROSS AMOUNT	(E) DEDUCTION AMOUNT	(F) NET TAXABLE AMOUNT	(G) TAX RATE	(H) TOTAL TAX AMOUNT	(I) ACCOUNTING CREDIT RATE	(J) * (F * I) ACCOUNTING CREDIT
1	Contracting	MAR	015	67,230.00	42,404.17	24,825.83	.063	1,564.03	.00056	13.90
2	MRRA Amount	MAR	315	8,406.00	0.00	8,406.00	.063	529.58		
3	Contracting	FH	015	16,900.00	16,900.00	0.00	.026	0.00		
4	MRRA Amount	FH	315	6,002.00	0.00	6,002.00	.026	156.05		
5	Contracting	GB	015	50,330.00	25,504.17	24,825.83	.015	372.39		
Subtotal								2,658.11		13.90

III. TAX COMPUTATION

1 Total deductions from Schedule A	1	84,808.34	
2 Total Tax Amount (from column H)	2	2,658.11	
3 State excess tax collected	+	3	
4 Other excess tax collected	+	4	
5 Total Tax Liability: Add lines 2, 3, and 4	=	5	2,658.11
6 Accounting Credit (from column J)	6	13.90	
7 State excess tax accounting credit: Multiply line 3 by .01	+	7	
8 Total Accounting Credit: Add lines 6 and 7	=	8	13.90
9 Net tax due line: Subtract line 8 from line 5	9	2,644.21	
10 Penalty and interest	+	10	
11 TPT estimated payments to be used	-	11	
12 Total amount due this period	=	12	2,644.21
13 Additional payment to be applied (for other periods)	+	13	
14 TOTAL AMOUNT REMITTED WITH THIS RETURN	=	14	2,644.21

AMENDED RETURN ONLY
 ORIGINAL REMITTED AMOUNT
 \$

DOR USE
 \$

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

TAXPAYER'S SIGNATURE _____ DATE _____ PAID PREPARER'S SIGNATURE (OTHER THAN TAXPAYER) _____
 PAID PREPARER'S EIN OR SSN _____

ADOR 10872 (1/15)

Please make check payable to Arizona Department of Revenue.

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Transaction Privilege, Use, and Severance Tax Return (TPT-1)

LICENSE NO. 2XXXXXXX

TRANSACTION DETAIL (ADDITIONAL TRANSACTIONS)

LINE (1)	(A) BUSINESS DESCRIPTION	(B) REGION CODE	(C) BUSINESS CODE	(D) GROSS AMOUNT	(E) DEDUCTION AMOUNT	(F) NET TAXABLE AMOUNT	(G) TAX RATE	(H) TOTAL TAX AMOUNT	(I) ACCOUNTING CREDIT RATE	(J) = (F * I) ACCOUNTING CREDIT
1	MRRA Amount	GB	315	2,404.00	0.00	2,404.00	.015	36.06		
2										
3										
4										
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7										
8										
9										
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29										
30										
31										
32										
33										
34										
35										
Subtotal								36.06		

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Transaction Privilege, Use, and Severance Tax Return (TPT-1)

LICENSE NO. 2XXXXXXX

Schedule A: Deduction Detail Information

The deduction amounts that have been listed on the lines in Section II, Column E must be itemized by category for each Region Code and Business Class reported. The total of the amounts listed in Schedule A must equal the total of the Deduction Amounts listed on page 1. (See page 4 of the TPT-1 Instructions.)

Deduction Codes for itemizing deductions, with a paraphrased description of the deduction (or exemption), are listed at www.azdor.gov. Some of the codes may be used for more than one business classification. Several additional Deduction Codes, as well as the statutory wording and any administrative guidance for each deduction code, are provided on the Department's web site. The actual text of the statutory deduction, exemption or exclusion is controlling for amounts taken as deductions on Form TPT-1. Schedule A must be completed and attached for deductions to be allowed. Unsubstantiated or incorrect deductions will be disallowed and penalties and interest will apply.

SCHEDULE A

Deduction Detail

(K) LINE	(G) REGION CODE	(L) BUSINESS CODE	(M) DEDUCTION CODE	(N) DEDUCTION AMOUNT	(O) DESCRIPTION OF DEDUCTION CODE
1	MAR	015	500	27,100.00	MRRA Jobs
2	MAR	015	502	13,367.75	35% Deduction Allowed
3	MAR	015	551	1,936.42	Tax Factored or Collected
4	FH	015	500	16,900.00	MRRA Jobs
5	GB	015	500	10,200.00	MRRA Jobs
6	GB	015	502	13,367.75	35% Deduction Allowed
7	GB	015	551	1,936.42	Tax Factored or Collected
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					

A Subtotal of Deductions	84,808.34
B Deduction Totals from Additional Page(s) ..	
C Total Deductions (line A + line B = line C) ..	84,808.34

Total Must Equal Total on Page 1, Section III, line 1

Miscellaneous

- Q23.** What if an MRRA contract includes both an MRRA activity and modification activity? (Modification activity is generally subject to prime contracting TPT.)
- A23.** Unless the modification activity meets the 15% or less de minimis test, the entire MRRA contract is subject to prime contracting TPT.
- Q24.** What does it mean to have de minimis modification activity in a nontaxable MRRA contract?
- A24.** A modification activity included in an MRRA contract will be considered “de minimis” if the amount attributable to the modification is 15% or less of the total receipts from the total contract. If the modification is 15% or less of receipts from the total contract, the Department will interpret the de minimis modification as being of such an inconsequential nature as to be nontaxable, rendering receipts from the entire contract exempt from prime contracting TPT.

Please note that taxable modification activities will be considered in the de minimis calculation, provided that they are not otherwise necessary for the performance of an MRRA activity.

It may be rare for an MRRA contract to contain modification activities that would require a de minimis 15% calculation, but the facts and provisions stated in the contract will determine if such a calculation is required.

A home remodel contract would generally be considered an “alteration” if it meets the criteria enumerated above in Question 2. However, such a contract may contain modification activities that require a 15% de minimis calculation. For example, a home remodel contract for \$150,000 includes the construction of a brand new outdoor kitchen gazebo in the backyard. This new gazebo structure will contain built-in outdoor appliances including a sink and all required plumbing. Of the entire \$150,000 contract amount, the amount designated to construct the outdoor kitchen is \$50,000. Because this amount comprises approximately 33% of the total contract amount, the entire \$150,000 contract is subject to tax under the *Prime Contracting classification*.

- Q25.** How does a change order affect the taxability of a nontaxable contract?
- A25.** Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract will be treated the same as the original contract regardless of the amount of modification activities included in the change order. If the change order does not directly relate to the scope of work of the original contract, the change order will be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates. If the change order is considered to be a new contract, the same analysis performed to determine the tax treatment of the

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original contract would be required to be performed to determine the tax treatment of this change order.

For example, suppose a contractor has a contract to expand the size of an existing commercial building. The contract is for less than \$750,000, the scope of work affects less than 40% of the original square footage and the expansion is less than 10% of the existing square footage of the existing property. This contract for expansion therefore qualifies as an alteration and is not subject to TPT. During the course of the work, however, suppose the customer decides to construct a new building in addition to the expansion of the existing one, and the change in the contract is done through a “change order.” This change order does *not* directly relate to the scope of work of the original contract; therefore, the change order will be treated as a new contract. The change order contract for the construction of the new building – a modification – is subject to prime contracting TPT. The taxability of the contract made through the change order, however, does not also make the initial contract for the alteration of the existing building subject to TPT. Each contract is independent of the other.

Q26. How is Job Order Contracting to be handled?

A26. Job Order Contracting (JOC) is a contracting method by which an owner engages a contractor for a specific duration or general scope of services which may be MRRA, or a combination of these activities. The specific scope of services is then defined under work orders issued to the contractor. For purposes of JOC activities, each work order shall be considered separately when determining whether the contract is a nontaxable MRRA contract or a taxable prime contracting contract. If the JOC is only for MRRA work, each of the work orders (and therefore the entire JOC contract value) shall be treated as a nontaxable MRRA contract. The materials incorporated into the MRRA work orders are subject to either the amount passed on by the retailer as tax at the time of purchase or subject to the amount imposed under A.R.S. §42-5008.01 if the materials were purchased exempt from tax under a Form 5000. Should any work order be issued for an alteration, such work order will need to be evaluated under the alteration qualification thresholds and taxed accordingly. Any subsequent work order that is directly related to an alteration work order, would be taxed the same as that alteration work order. JOC work is subject to the de minimis test should any MRRA work order include modification activities.

Q27. Under the criteria for Alteration, how are the 40% or less and 10% or less of existing square footage thresholds for commercial property calculated under a tenant improvement contract?

A27. If a contractor is under contract with the tenant for improvement to its leased space, the square footage used to calculate the 40% or the 10% is the square footage under the lease on which the tenant has the authority to authorize work. If a contractor is under contract with the owner of a multi-tenant property to perform improvements to an individual tenant space within the existing property, the calculation of the thresholds is based on the leasable square footage of the entire existing property. For the definition of who may be considered an “owner”, please refer to Q/A #4.

Examples of specific scenarios

1. *Scenario:* A homeowner decides to remodel her kitchen. The owner hires a contractor and has him replace all of the existing appliances and flooring. Additionally, the homeowner decides to have the contractor install a new island that did not previously exist. The full cash value of the home at the time of bid is \$200,000. The contract price is \$40,000.

Result: This contract is not subject to prime contracting TPT. The addition of the kitchen island causes this project to be treated as either an alteration project or a modification project. Because the contract price is only 20% of the of the full cash value of the property, the project meets the definition and criteria for an alteration and is therefore exempt from TPT. The materials to be used in this MRRRA contract are subject to retail TPT.

2. *Scenario:* A business has an existing pump system in its building. One day the pump fails. The business owner hires a contractor to repair the pump. The contractor replaces the existing faulty pump with a fully operating one. While on the job, the contractor notices that the wiring leading up to the pump also needs to be replaced. The contractor replaces this wiring.

Result: This contract is for replacement activity and thus not subject to prime contracting TPT. The materials to be used in this MRRRA contract are subject to retail TPT.

3. *Scenario:* A business hires a contractor to install a pump system in its building. Before installation, the building did not have a pump system. The contract price is less than \$750,000.

Result: The installation of the pump system is an alteration to real property that is exempt from prime contracting TPT. The contract is for less than \$750,000 and the installation of the pump has no impact on the square footage of the building. The materials to be used in this MRRRA contract are subject to retail TPT.

4. *Scenario:* As part of the renovation of her house, a homeowner hires a contractor to remove and replace electrical panels, an automatic transfer switch, and a backup generator; install new wiring and conduit; and alter existing conduit.

Result: So long as the contract price is 25% or less than the full cash value of the home at the time the contract was bid or signed, whichever is higher, the contract is for repair, replacement, and alteration activities only and thus is not subject to prime contracting TPT. The materials to be used in this MRRRA contract are subject to retail TPT.

5. *Scenario:* A business intends to remodel its retail storefront. It begins by hiring a contractor to demolish the store's existing interior walls and remodel the store. The contract price is less than \$750,000 but the contract requires the remodeling of more than 40% of the existing square footage.

Result: Because the contract exceeds one of the thresholds to qualify as an alteration, the contract is subject to tax under the *Prime Contracting classification*.

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6. *Scenario:* A business owner has an existing A/C system in their building. The business owner has a contractor inspect the A/C system annually. On the most recent visit, the contractor discovers that the system's Freon gas level is low and recharges it.

Result: This contract is for maintenance activity and thus not subject to prime contracting TPT. The materials to be used in this MRRA contract are subject to retail TPT.

7. *Scenario:* As part of a flood control measure, the state awards a contract for the refurbishment of an existing dam. As part of the refurbishment project the contractor is responsible for raising the height of the existing structure, thereby increasing its size and flood retention capacity. The project also includes clearing, cleaning, and adding water diversion materials to already existing drainage channels. The contract price is less than \$750,000.

Result: Raising the height of an existing dam is a nontaxable alteration, while the draining channel work constitutes a nontaxable repair activity. As such, this MRRA contract is not subject to prime contracting TPT. The materials to be used in this MRRA contract are subject to retail TPT.

8. *Scenario:* A plumbing subcontractor is working on a project that originally involved 80% repair work and 20% new construction. Because of numerous change orders, the amount of work performed for the new construction grew to 60% of the scope of the work.

Result: Because the modification work related to the new building addition is greater than 15%, the entire contract would be subject to prime contracting TPT. A change order that relates directly to the scope of the original contract will receive the same tax treatment as the original contract. If the scope of work under a particular change order involves activities that do not directly relate to the scope of work of the original contract, the change order would need to be evaluated as a separate contract to determine whether it is a nontaxable MRRA activity or a taxable modification activity.

9. *Scenario:* A homeowner decides to build a *new* block wall (no existing structure prior) in his backyard to separate his yard from his neighbor's. The completed new wall does not have stucco or paint on it. A month later, the homeowner hires a different contractor to stucco and paint the wall.

Result: The contract to build the new block wall is a modification activity and therefore subject to prime contracting TPT. The subsequent contract to stucco and paint the wall is for alteration activity and thus not subject to TPT as long as the contract price to stucco and paint the wall is 25% or less of the Full Cash Value of the property at the time of the contract, regardless of whether this contract is with the original contractor or a different contractor.

10. *Scenario:* As part of the maintenance of deteriorating roadway concrete, the Arizona Department of Transportation ("ADOT") hires a contractor to demolish and remove the existing concrete and replace it with an improved material, as well as applying a new type of road striping that did not exist when the original roadway was built.

Result: A contract with ADOT, a city or town, a county or a surface/subsurface-oriented special taxing district that involves surface and/or subsurface improvements to land is subject to tax

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under the *Prime Contracting classification* without regard to whether the work would otherwise qualify for MRRRA treatment.

11. *Scenario:* A contractor is responsible for improving 27 miles of roadway. The existing condition is a signed (*i.e.*, numbered) dirt roadway; upon project completion, the road structure will consist of aggregate base and asphaltic concrete, the road will have a new storm drain, and the road will be upgraded from a single road into a divided roadway.

Result: A contract with ADOT, a city or town, a county or a surface/subsurface-oriented special taxing district that involves surface or subsurface improvements to land, the contract is subject to tax under the *Prime Contracting classification* without regard to whether the work would otherwise qualify for MRRRA treatment.

12. *Scenario:* A contractor is responsible for building a pedestrian and bicycle pathway along an existing wash channel. The wash has been previously improved with excavation, clearing, and soil cement along the channel walls for strengthening and erosion control purposes. The pathway project will consist of expanding the area of existing soil cement up over the shoreline to allow for pedestrian and bicycle access.

Result: If the contract is with a city or town, county, or certain special taxing districts, the contract is subject to tax under the *Prime Contracting classification* without regard to whether or not it is an alteration. If the contract is with someone other than a city or town, county, or certain special taxing districts, because the original wash channel constitutes improved real property, the pathway project generally consists of alteration activities exempt from prime contracting TPT if the contract price is for less than \$750,000. If the project on its face falls within the definition of "alteration," and if modification activities must be performed, the de minimis test must be applied to the contract. If such modification activities account for more than 15% of the total contract, the entire contract is subject to prime contracting TPT. If the modification activities account for 15% or less of the total contract, such activities are considered de minimis and receipts from the entire MRRRA contract are exempt from prime contracting TPT.

13. *Scenario:* A contractor is engaged to convert a 20,000-square foot warehouse into an indoor go-cart racing facility. In addition to reconfiguring the interior to provide for a racetrack and other recreational amenities, the conversion will enlarge the existing warehouse structure to 30,000 square feet, expanding the interior to cover what is currently raw land adjacent to the warehouse as well as a portion of a parking lot.

Result: Because this project involves commercial property, all of the following must apply in order for the project to qualify as a nontaxable MRRRA project. The contract must be for \$750,000 or less, the scope of work must affect 40% or less of the total square footage and the expansion of square footage must be 10% or less of the existing square footage. Under the terms of this contract, the warehouse will be expanded by more than 10% of the existing square footage. The project does not qualify as an alteration under MRRRA and the total price of the contract is subject to tax under the *Prime Contracting classification*.

14. *Scenario:* A contractor enters into a contract to build a new office building which is taxed as a prime contracting job. The contract includes a one-year warranty provision on materials,

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workmanship, etc. Six months after completion of the project, the contractor is called back for a plumbing leak. The contractor is required to remove a section of drywall, complete the plumbing repairs and re-drywall the section and paint. Additionally, there was some damage to carpet which had to be removed and replaced. The contractor will not receive revenue (since it was warranty), but will be purchasing materials for the warranty work.

Result: Because the warranty was included in the original contract which was subject to tax under the *Prime Contracting classification*, materials purchased for purposes of performing warranty work are not subject to retail TPT tax. In the event that the contractor receives separate payment for the warranty contract, the warranty contract should be evaluated as a stand-alone contract.

15. *Scenario:* Same as Scenario 14, but the original contract was an MRRA contract (remodel on an existing building that falls within the alteration thresholds).

Result: Materials incorporated in the course of performing the warranty work are either subject to tax at the time of purchase or subject to the amount equal to the retail tax that the seller would have paid, in accordance with A.R.S. § 42-5008.01.

16. *Scenario:* A contractor has a long-term warranty contract with an Owner. This contract is for 2 years (with 2-year renewal options). Billings to the Owner are done on a time and material plus fee basis. The contract calls for the contractor to:

- Inspect/test all mechanical and plumbing systems on a monthly basis
- Replace any parts which have failed, or are at “end of life” expectancy
- Repair any damages that may be caused as a result of failed parts

Result: Materials incorporated in the course of performing the warranty work are either subject to tax at the time of purchase or subject to the amount equal to the retail tax that the seller would have paid, in accordance with A.R.S. § 42-5008.01.

17. *Scenario:* A person engages in a business for repair and replacements on existing (used) mobile homes. The business also moves used mobile homes to other locations. As part of the contract to move an existing mobile home, the business will install skirting, blocking, awnings, etc.

Result: The above activity is not subject to transaction privilege tax. However, the materials incorporated into this contract are subject to tax at the time of purchase.

18. *Scenario:* Due to flooding, a home or business sustains substantial damage to interior walls, flooring/carpeting, and real property fixtures. A disaster recovery business is employed to assess and repair the damages, including replacing drywall, flooring/carpeting and other fixtures.

Result: This contract is for a repair activity and thus not subject to prime contracting TPT. The materials to be used in this contract are subject to retail TPT at the time of purchase or payment of the A.R.S. §42-5008.01 amount (MRRA Amount) based on the cost of the materials.

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19. *Scenario:* Due to flooding, a home or business sustains substantial damage to interior walls, flooring/carpeting, and real property fixtures. A disaster recovery business is employed to assess and repair the damage, including replacing drywall, flooring/carpeting and other fixtures. The home or business owner decides this is the perfect occasion to change the interior layout of the structure, moving walls and also moving the kitchen from the back room to the front room.

Result: This repair contract has now become an alteration contract. As long as all of the “alteration” criteria listed in A.R.S. §42-5075(R) are met and not exceeded, the contract income is not subject to prime contracting TPT. The materials to be used in this contract are subject to retail TPT at the time of purchase, or payment of the A.R.S. §42-5008.01 amount (MRRRA Amount) based on the cost of the materials.

If the “alteration” criteria listed in A.R.S. §42-5075(R) disqualifies this project from being considered an alteration, the project income is subject to prime contracting TPT. The materials that will be incorporated or fabricated into the real property may be purchased exempt from tax by the prime contractor.

20. *Scenario:* After testing, it is determined that a building contains asbestos in the thermal insulation of its walls and in the “flocked” ceilings, which is a hazard to the building’s occupants. A company specializing in asbestos removal is contracted to remove the asbestos and make the building safe for its occupants. The company will be tearing down walls and replacing the ceiling components with safe materials.

Result: Because the asbestos removal will “cause a direct physical change to existing property,” it is considered an alteration activity. As long as all of the “alteration” criteria are met and not exceeded, the contract income is not subject to prime contracting TPT. The materials to be used in this contract are subject to retail TPT at the time of purchase, or payment of the 42-5008.01 amount (MRRRA Amount) based on the cost of the materials.

If the “alteration” criteria are not met and this project is therefore disqualified from being considered an alteration, the project income is subject to prime contracting TPT. The materials that will be incorporated or fabricated into the real property may be purchased exempt from tax by the prime contractor.

21. *Scenario:* A contractor enters into a 2-year MRRRA Job Order Contract (JOC) for a price not to exceed \$1,500,000. The owner issues work orders to perform MRRRA activities at the site. After the 2 years have expired, the contractor has performed \$1,250,000 in MRRRA work.

Result: The work orders are treated as independent contracts (similar to change orders). If each work order meets the criteria to be treated as an MRRRA project, the materials are subject to tax at the time of purchase. If the contractor purchased the materials exempt from tax, the contractor is liable for the amount imposed under A.R.S. §42-5008.01 at the rate equal to the retail rate at the location of the MRRRA work.

22. *Scenario:* Same as #21, however, the owner issues a work order for the remodel of an existing wing of the building. The work order is issued for \$250,000.

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Result: So long as the remodel was for 40% or less of the existing square footage of the property, the work order qualifies as a nontaxable alteration and the materials are subject to tax at the time of purchase. If the contractor purchased the materials exempt from tax, the contractor is liable for the amount imposed under §42-5008.01 at the rate equal to the retail rate at the location of the work.

23. *Scenario:* Same as #22, however, further remodel work on this existing wing (based on work orders issued that are directly related to the initial alteration work order for this wing) results in the aggregate work order revenue for the Alteration to be \$1,000,000.

Result: The work order for the alteration to this wing becomes subject to TPT under the *Prime Contracting classification* because it exceeds the \$750,000 alteration threshold (including the 25% “cushion” referenced in A2 above). The materials incorporated into the prime contracting work order are not subject to tax at the time of purchase. The materials incorporated into the MRRA work orders that are not related to this wing remodel work order are either subject to tax at the time of purchase or subject to an amount equal to retail tax. If the contractor purchased the materials exempt from tax, the contractor is liable for the amount imposed under A.R.S. §42-5008.01 at the rate equal to the retail rate at the location of the work.

24. *Scenario:* Tenant is an attorney who will be leasing an unoccupied 2,000 sq. ft. unit in an office building from Landlord. Contractor has a contract with Tenant for the tenant improvement remodel that will directly relate to Tenant’s unit.

Result: This project exceeds the 40% threshold test for an alteration. The project would not be an exempt alteration under A.R.S. §42-5075.O. It would be a modification taxable under the prime contracting classification.

25. *Scenario:* Landlord owns a 25,000 sq. ft. office building. In order to attract a tenant, Landlord builds out a 2,000 sq. ft. “spec suite” lease space. Contractor contracts with Landlord for the construction of the spec suite for \$200,000.

Result: This project would fall within the definition of “alteration”, not subject to tax under the prime contracting classification. The scope of the contract relates to less than 40% of the owner’s existing property and the contract price is less than \$750,000.

26. *Scenario:* Landlord owns a 4,000 sq. ft. office building. In order to attract a tenant, Landlord builds out a 2,000 sq. ft. “spec suite” lease space. Contractor contracts with Landlord for the construction of this spec suite.

Result: This project exceeds the 40% threshold test for an alteration. The project would not be an exempt alteration under A.R.S. §42-5075.O. It would be a modification taxable under the prime contracting classification.

27. *Scenario:* I am a contractor who is licensed for prime contracting TPT purposes who performs both taxable modification activities and nontaxable MRRA activities as part of my business. I rent scaffolding for use on construction projects (for both MRRA and modification projects). In

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some cases where I rent the scaffolding, I also provide the labor to erect and dismantle the scaffolding. How should I treat those activities for TPT purposes?

Result: A person who erects/dismantles scaffolding is conducting contracting activities. See definition of contractor in Q6 above. So where you rent the scaffolding and also provide the labor to erect and/or dismantle the scaffolding, you will be engaging in prime contracting activities and the income derived from the project may be taxable under the prime contracting classification depending on whether the project is a modification or MRRRA project. However, where you rent the scaffolding but do not provide any labor to erect or dismantle the scaffolding, you will be considered as engaging in personal property rental activity, not prime contracting. Thus any income derived from only renting the scaffolding is taxable under the personal property rental classification.

28. *Scenario:* What if the scaffolding is rented for a modification project and labor to erect and/or dismantle it is not provided, but there is a Form 5005 on file?

Result: The rental of the scaffolding is subject to TPT under the personal property rental classification. In addition, this tax is due whether or not there is a Form 5005 on file. The Form 5005 is used for prime contracting where the TPT is based on the prime contracting classification; the prime contractor signing the form is only responsible for the prime contracting TPT. Because you will be considered to be engaging in personal property rental, the Form 5005 would not relieve you of paying the TPT on the income from the rental. You will have to report and pay the TPT on the gross income you derive from renting the scaffolding based on the personal property rental classification.

Explanatory Notice

The purpose of a tax notice is to provide general guidance to assist taxpayers in becoming familiar with Arizona tax laws. A tax ruling is intended to encompass issues of law that are not adequately covered in statute, case law or administrative rules, but are not intended to address complex issues in detail or to address a taxpayer's specific circumstance. Relevant statute, case law, or administrative rules, as well as a subsequent notice, may modify or negate any or all of the provisions of any tax notice. If the information in a notice is shown to be erroneous and a taxpayer shows reasonable reliance on that information, the taxpayer will be liable for any tax or interest which may result from the erroneous advice, but no penalties will be imposed. See GTR 08-1 for more detailed information regarding documents issued by the Department of Revenue.